

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Case No. 1:19-cv-1033
)	
v.)	
)	
DWAINE SCHAAL a/k/a Dwaine A. Schaal;)	
TERRY A. SCHAAL;)	
and MCHENRY COUNTY, ILLINOIS,)	
)	
Defendants.)	

COMPLAINT

Plaintiff United States of America, pursuant to 26 U.S.C. §§ 7401, 7402, and 7403, with the authorization of a delegate of the Secretary of the Treasury and at the direction of a delegate of the Attorney General, brings this civil action to reduce to judgment certain unpaid federal tax liabilities of Defendant Dwaine Schaal and to enforce federal tax liens on Dwaine Schaal's interest in a certain parcel of real property. In support of this action, the United States alleges, as follows:

Jurisdiction, Venue, and Parties

1. Jurisdiction over this action is conferred upon this Court under 28 U.S.C. §§ 1331, 1340, and 1345, and 26 U.S.C. §§ 7402 and 7403.
2. Defendant Dwaine Schaal, also known as Dwaine A. Schaal, resides in Island Park, Illinois, which is within the jurisdiction of this Court.
3. Defendant Terry A. Schaal is named as a defendant in this case because she has, or may claim, an interest in the real property on which the United States seeks to enforce its liens.

4. Defendant McHenry County, Illinois, is named as a defendant in this case because it has, or may claim, an interest in the real property on which the United States seeks to enforce its liens.

The Property

5. The real property that is the subject of this action is located at 4029 Roberts Road, Island Lake, McHenry County, Illinois 60042 (the “Property”), and is legally described, as follows:

THE EAST 150.0 FEET OF THE EAST 520.3 FEET OF THAT PART OF THE NORTH HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 44 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF LOT 13 IN MCHENRY ADDITION TO ISLAND LAKE ESTATES, ACCORDING TO THE PLAT THEREOF RECORDED MARCH 22, 1938 AS DOCUMENT NO. 131529, IN BOOK 9 OF PLATS, PAGE 3; THENCE WEST PARALLEL WITH THE SOUTH LINE OF SAID LOT 13, 1282.6 FEET; THENCE SOUTH PARALLEL WITH THE EAST LINE OF SAID SECTION 29, 102.0 FEET; THENCE EAST PARALLEL WITH THE SOUTH LINE OF SAID LOT 13, 1282.6 FEET; THENCE NORTH 102 FEET TO THE PLACE OF BEGINNING, IN MCHENRY COUNTY, ILLINOIS.

SUBJECT TO: THE RESERVATION OF AN EASEMENT FOR INGRESS, EGRESS, AND PUBLIC UTILITIES OVER, UNDER AND THROUGH THE PARCEL AS DESCRIBED:

EASEMENT PARCEL:

THE SOUTH 30.0 FEET OF THE EAST 150.0 FEET OF THE EAST 520.3 FEET OF THAT PART OF THE NORTH HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 44 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF LOT 13 IN MCHENRY ADDITION TO ISLAND LAKE ESTATES, ACCORDING TO THE PLAT THEREOF RECORDED MARCH 22, 1938 AS DOCUMENT

NO. 131529, IN BOOK 9 OF PLATS, PAGE 3; THENCE WEST PARALLEL WITH THE SOUTH LINE OF SAID LOT 13, 1282.6 FEET; THENCE SOUTH PARALLEL WITH THE EAST LINE OF SAID SECTION 29, 102.0 FEET; THENCE EAST PARALLEL WITH THE SOUTH LINE OF SAID LOT 13, 1282.6 FEET; THENCE NORTH 102.0 FEET TO THE PLACE OF BEGINNING, IN MCHENRY COUNTY, ILLINOIS.

THE AFORE DESCRIBED EASEMENT IS FOR THE USE AND BENEFIT OF THE FOLLOWING DESCRIBED PROPERTY:

THE EAST 520.3 FEET (EXCEPT THE EAST 150 FEET THEREOF) OF THAT PART OF THE NORTH HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 44 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF LOT 13 IN MCHENRY ADDITION TO ISLAND LAKE ESTATES, ACCORDING TO THE PLAT THEREOF RECORDED MARCH 22, 1938 AS DOCUMENT NO. 131529, IN BOOK 9 OF PLATS, PAGE 3; THENCE WEST PARALLEL WITH THE SOUTH LINE OF SAID LOT 13, 1282.6 FEET; THENCE SOUTH PARALLEL WITH THE EAST LINE OF SAID SECTION 29, 102.0 FEET; THENCE EAST PARALLEL WITH THE SOUTH LINE OF SAID LOT 13, 1282.6 FEET; THENCE NORTH 102.0 FEET TO THE PLACE OF BEGINNING, IN MCHENRY COUNTY, ILLINOIS.

6. Dwaine A. Schaal and Terry A. Schaal acquired the Property from Jack E. Schaal and Nancy J. Schaal, by Warranty Deed dated January 8, 1993. The Warranty Deed was recorded with the McHenry County Recorder on January 11, 1993 as Document 1993R001823 and was re-recorded with the McHenry County Recorder on November 14, 1994, as Document 1994R064260, in order to correct an error in the legal description of the original Warranty Deed.

Count I: Reduce to Judgment Dwaine Schaal's Tax Liabilities

7. On the dates, in the amounts, and for the years set forth below, a delegate of the Secretary of the Treasury made assessments against Dwaine Schaal for unpaid federal income

taxes, penalties, and interest, which have balances due after accounting for all payments and credits and with accruals and costs as of February 13, 2019, as follows:

Tax Period	Assessment Date	Assessment Type	Assessed Amount
2006	11/05/2012	Tax Assessed	\$24,248.00
	11/05/2012	Failure to Pre-Pay Tax Penalty	\$1,147.52
	11/05/2012	Late Filing Penalty	\$3,205.80
	11/05/2012	Interest Assessed	\$4,586.11
	11/05/2012	Late Payment Penalty	\$3,562.00
	10/06/2014	Interest Assessed	\$1,445.95
		Unpaid Balance With Interest as of 02/13/2019	\$30,108.65
2007	11/05/2012	Tax Assessed	\$29,163.00
	11/05/2012	Failure to Pre-Pay Tax Penalty	\$1,327.30
	11/05/2012	Late Filing Penalty	\$5,436.68
	11/05/2012	Interest Assessed	\$5,766.62
	11/05/2012	Late Payment Penalty	\$6,040.75
	10/06/2014	Interest Assessed	\$2,530.12
		Unpaid Balance With Interest as of 02/13/2019	\$53,616.77
2008	11/05/2012	Tax Assessed	\$37,372.00
	11/05/2012	Failure to Pre-Pay Tax Penalty	\$1,201.01
	11/05/2012	Late Filing Penalty	\$7,283.70
	11/05/2012	Late Payment Penalty	\$6,959.98
	11/05/2012	Interest Assessed	\$5,456.14
	10/06/2014	Late Payment Penalty	\$1,133.02
	10/06/2014	Interest Assessed	\$3,154.06
		Unpaid Balance With Interest as of 02/13/2019	\$68,181.02
2009	10/29/2012	Tax Assessed	\$11,983.00
	10/29/2012	Failure to Pre-Pay Tax Penalty	\$277.33
	10/29/2012	Late Filing Penalty	\$2,606.18
	10/29/2012	Late Payment Penalty	\$1,795.36
	10/29/2012	Interest Assessed	\$1,253.97
	10/06/2014	Late Payment Penalty	\$1,100.39
	10/06/2014	Interest Assessed	\$1,048.87
		Unpaid Balance With Interest as of 02/13/2019	\$22,194.78
Unpaid Balance with Interest as of 02/13/2019			\$174,101.22

8. On or about the dates described in paragraph 7, above, a delegate of the Secretary of the Treasury properly gave notice of those assessments to Dwaine Schaal, and made a demand for payment of the balance due upon him.

9. Despite such notice and demand, Dwaine Schaal has failed, neglected, or refused to pay the liabilities set forth above in full and, after taking into account all abatements, payments, credits, and accruals, Dwaine Schaal remains liable to the United States for the unpaid balance due in the amount of \$174,101.22, plus interest and other statutory additions from and after February 13, 2019.

Count II: Enforcement of Federal Tax Liens Against the Property

10. The United States incorporates paragraphs 1 through 9, above.

11. Pursuant to 26 U.S.C. §§ 6321 and 6322, on the dates of the assessments set forth in paragraph 7 above, federal tax liens arose in favor of the United States, in an amount equal to the unpaid assessments, plus statutory accruals, upon all property and rights to property belonging to Dwaine Schaal, including his interest in the Property.

12. On December 7, 2012, the Internal Revenue Service filed a Notice of Federal Tax Lien, in accordance with 26 U.S.C. § 6323(f), with the McHenry County Recorder of Deeds, for the unpaid income tax liabilities of Dwaine Schaal for tax years 2006-2009, which was recorded as Document 2012R0058475.

13. Pursuant to 26 U.S.C. § 7403, the United States is entitled to enforce its liens upon the Property, to have that property sold at a judicial sale free and clear of all rights, titles, claims, and interests of the parties, including any rights of redemption, and to have the proceeds distributed, after the payment of the cost of sale and any real estate taxes due and owing, as

permitted by 26 U.S.C. § 6323(b)(6), to the United States or as otherwise determined by the Court.

WHEREFORE, the plaintiff United States of America prays that:

A. The Court enter judgment in favor of plaintiff United States of America and against defendant Dwaine Schaal for unpaid federal income taxes for the tax periods ending December 31, 2006, December 31, 2007, December 31, 2008, and December 31, 2009, in the amount of \$174,101.22, plus statutory interest and other additions according to law from and after February 13, 2019, including interest pursuant to 26 U.S.C. §§ 6601, 6621 and 6622, and 28 U.S.C. § 1961(c);

B. The Court determine that the United States has valid and subsisting tax liens, pursuant to 26 U.S.C. § 6321, upon all property and rights to property of Dwaine Schaal;

C. The Court enforce the federal tax liens on, and permit the sale of, the entire Property, free and clear of all rights, title, liens, claims, and interests of the parties, including any rights of redemption, and distribute the proceeds, after the payment of the costs of sale and any real estate taxes due and owing under 26 U.S.C. § 6323(b)(6), to the United States of America, or as otherwise determined by the Court;

D. The Court determine that any failure by any defendant other than the defendant Dwaine Schaal, Terry A. Schaal, and any governmental entity holding a lien securing unpaid real property tax under 26 U.S.C. § 6323(b)(6), to timely plead a right, title, claim, or interest in the Property shall result in a default being entered against that party, and a default judgment finding that said party has no right, title, claim, lien, or other interest in the Property; and

E. The Court award the United States of America such further relief, including the costs of this action, that the Court deem just and proper.

Respectfully submitted,

RICHARD E. ZUCKERMAN
Principal Deputy Assistant Attorney General
U.S. Department of Justice, Tax Division

/s/ Bradley A. Sarnell
BRADLEY A. SARNELL
Trial Attorney, Tax Division
U.S. Department of Justice
P.O. Box 55
Washington, D.C. 20044
202-307-1038 (v)
202-514-5238 (f)
Bradley.A.Sarnell@usdoj.gov